

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
No. 5:19-CV-00430-BO

U.S. TOBACCO COOPERATIVE, INC.,	)	
	)	
	)	
	)	<b>MOTION FOR RECONSIDERATION</b>
v.	)	<b>OF ORDER AND MEMORANDUM</b>
	)	<b>AND RECOMMENDATION [D.E. 112]</b>
CERTAIN UNDERWRITERS AT	)	
LLOYD'S SUBSCRIBING TO POLICY	)	
NUMBERS B1353DC1703690000 AND	)	
B1353DC1602041000	)	
	)	

NOW COME Defendants, Certain Underwriters at Lloyd's Subscribing to Policy Numbers B1353DC1703690000 and B1353DC1602041000 (referred to herein as "Underwriters" or "Defendants"), pursuant to Fed. R. Civ. P.'s 60 & 54(b) and move that the Court reconsider Magistrate Judge Robert T. Numbers, II's August 18, 2021, Order & Memorandum & Recommendation (see ECF doc. no. 112, the "O&M&R") imposing sanctions against Underwriters under Fed. R. Civ. P. 37.

For the reasons set forth in Underwriters' Supporting Memorandum, filed contemporaneously herewith and incorporated herein, Underwriters respectfully submit that new facts and evidence that have become available and evident to them since they filed their briefing in opposition to Plaintiff's Motions for Sanctions and Objections to and Statement of Appeal of the O&M&R. The new facts and evidence warrant reconsideration to prevent substantial injustice to Underwriters given the facts and circumstances surrounding the discovery violations that the

Court determined to have occurred, which in turn resulted in the sanctions imposed by the  
O&M&R. Dated: December 10, 2021

CLARK, NEWTON & EVANS, PA

By: /s/ Seth P. Buskirk  
NC BAR 36664  
509 Princess Street  
Wilmington, NC 28401  
Tel: (910) 762-8743  
Fax: (910) 762-6206  
spb@clarknewton.com  
Local Civil Rule 83.1(d) Counsel for  
Defendants

By: /s/Michael J. Tricarico  
Kennedys CMK LLP  
570 Lexington Ave.  
New York, NY 10022  
212-252-0004  
Michael.Tricarico@KennedysLaw.com  
New York Bar. No. 2466878  
Attorney for Defendants Certain Underwriters at  
Lloyd's

## **CERTIFICATE OF SERVICE**

I certify that a true copy of the foregoing document was filed with the Clerk of the Court using the CM/ECF system and notification will be sent to the following:

Mark E. Anderson    [manderson@mcguirewoods.com](mailto:manderson@mcguirewoods.com),

[cguerrero@mcguirewoods.com](mailto:cguerrero@mcguirewoods.com), [jmurphy@mcguirewoods.com](mailto:jmurphy@mcguirewoods.com)

Don T. Evans, Jr    [dte@clarknewton.com](mailto:dte@clarknewton.com), [lao@clarknewton.com](mailto:lao@clarknewton.com)

Seth Peter Buskirk    [spb@clarknewton.com](mailto:spb@clarknewton.com), [billing@clarknewton.com](mailto:billing@clarknewton.com),

[jas@clarknewton.com](mailto:jas@clarknewton.com), [spbuskirk@gmail.com](mailto:spbuskirk@gmail.com)

Shelby S. Guilbert    [sguilbert@mcguirewoods.com](mailto:sguilbert@mcguirewoods.com)

Amy E. Dehnel    [adehnel@mcguirewoods.com](mailto:adehnel@mcguirewoods.com), [smallavarapu@mcguirewoods.com](mailto:smallavarapu@mcguirewoods.com)

James A. Saville    [jsaville@hillrivkins.com](mailto:jsaville@hillrivkins.com)

Michael J. Tricarico    [michael.tricarico@kennedyslaw.com](mailto:michael.tricarico@kennedyslaw.com)

Dated: December 10, 2021

/s/Seth P. Buskirk